INTEROFFICE MEMORANDUM

TO: BONNIE LOVELACE, GOVERNOR'S PIPELINE COUNCIL
FROM: G. JOEL TIERNEY, PUBLIC SERVICE COMMISSION
SUBJECT: PSC PIPELINE JURISDICTION, INTRASTATE PIPELINES
DATE: 12/21/2011

WHAT IS THE MONTANA PSC PIPELINE SAFETY PROGRAM

Congress has designated the United States Department of Transportation (USDOT), Pipeline and Hazardous Materials Safety Administration (PHMSA), as the agency responsible for developing, issuing, and enforcing pipeline safety regulations. However, the pipeline safety laws provide for State assumption of jurisdiction over intrastate gas pipeline operators. States may assume regulation of the auditing and enforcement responsibilities under an annual certification with PHMSA. To qualify for certification, a state must adopt the minimum Federal pipeline safety standards. A State must also provide for injunctive and monetary sanctions substantially the same as those authorized by the pipeline safety statutes.

WHAT TYPES OF OPERATORS ARE JURISDICTIONAL TO THE PSC

The PSC has retained jurisdiction over intrastate gas pipeline operators since 1971 when the USDOT first adopted pipeline safety regulations created by the Pipeline Safety Act of 1968. A variety of gas pipeline operators are jurisdictional to the PSC. A summary of the type of operator and quantity of operators is shown in Table 1.

Table 1 Summary of Intrastate Gas Pipeline Operators

TYPE	QUANTITY OF OPERATORS	QUANTITY OF INSPECTION UNITS
Liquefied Natural Gas	0*	1
Liquefied Propane Gas	5	7
Master Meter	5	5
Municipal Gas Distribution	1	1
Private Gas Distribution	4	19
Transmission	4	5**
Total	19	38

*Energy West operates a liquefied natural gas (LNG) plant in West Yellowstone

**Montana Dakota Utilities (MDU) is a distribution operator but operates a short section of transmission line.

Currently, the PSC has jurisdiction over 19 pipeline operators. Some pipeline operators, such as Northwestern Energy, are further divided into inspection units. An inspection unit is an administrative unit operators create for operating and record keeping purposes. For example, Northwestern Energy's natural gas distribution operations are divided into 11 inspection units. The inspection units correspond to Northwestern Energy's Divisions, i.e. Helena, Kalispell, Great Falls, etc. Although the PSC only has 19 operators, the PSC staff audits 38 different inspection units as categorized in Table 1. Overall, the PSC has

jurisdiction over more than 289,000 gas service lines, 6700 miles of gas mains, and 2200 miles of gas transmission pipeline.

As shown in table 1, the PSC has jurisdiction over a variety of different types of gas operators. The liquefied natural gas (LNG) system in located in West Yellowstone is composed of a cryogenic tank for storing LNG and equipment for vaporizing LNG into natural gas, which is then fed into the gas distribution system serving the town of West Yellowstone. Liquefied propane gas (LPG) systems operate under a similar concept. Liquid propane from a bulk storage tank is fed to vaporization equipment which heats the liquid propane to gaseous propane. The gaseous propane is fed into a distribution system serving a town. Townsend and Culbertson are examples of towns fed with an LPG system. It should be noted that, in general, the PSC does not have jurisdiction over individual residences fed from tanks located on the residence's property.

Master meter operators are a separate category of natural gas operators. An example of a master meter is a trailer court that has a single meter connected to the utility company's gas distribution system. Gas for each individual trailer passes through the master meter and may be metered at each trailer. The utility's responsibility generally ends at the outlet swivel of the master meter, thus the master meter operator is responsible for maintaining the gas system from the outlet swivel of the master meter to each individual trailer and operates as a miniature gas distribution company.

The municipal gas distribution category is composed of one municipally owned natural gas distribution utility (Town of Saco). Similarly, operators in the private gas distribution category are natural gas distribution companies that are operated as private entities. Examples of private gas distribution companies are Northwestern Energy, Montana-Dakota Utilities and Energy West.

Transmission operators are composed of companies that operate high pressure gas pipelines. The four gas transmission pipeline operators in Montana are Northwestern Energy, Havre Pipeline (Devon Energy), Energy Corporation of America and Highland Partners. As noted in Table 1, MDU operates a short section of transmission line but is considered a private distribution operator since the majority of MDU's gas system is used for gas distribution.

HOW DOES THE PSC'S PIPELINE SAFETY PROGRAM WORK

The PSC's pipeline safety duties consist of operator compliance audits; enforcement activities; training and safety programs; and incident investigations. The PSC's pipeline safety program has an approximate $150,000 budget. The pipeline safety program receives approximately 65% of its funding from the USDOT/PHMSA and the remaining funding from the state. The percentage of funding provided by the Federal government varies annually based on Congressional funding, the results of an annual program audit performed by PHMSA, and program data submitted to PHMSA by the PSC on its annual certification. Within the PSC, funds for the pipeline safety program are allocated to a separate financial center and not the general PSC fund. This pipeline safety financial center is dedicated to the pipeline safety program and cannot be used for anything else.

PSC staff conducts audits and spend, depending on staffing at any given time, over a hundred person days outside the office.

PSC ENFORCEMENT PROCESS

If an audit indicates that a pipeline operator is not in compliance with the applicable pipeline safety regulations, PSC staff issue a notice of probable violation to the operator. The notice includes a citation of the law, regulation or order which the operator of the pipeline appears to have violated, and a statement that the operator is required to correct all cited violations within 60 days following issuance of the notice.

Once an operator corrects a probable violation, PSC staff review the operator's correction to ensure the operator's solution to the probable violation is acceptable. After an acceptable correction is implemented by the operator, PSC staff closes the audit and notes the date when the operator complied with all issues identified during the audit.

If the violations are not satisfactorily resolved within 60 days following the issuance of the Notice of Probable Violation, through the informal process described above, the PSC may issue an order to show cause to the pipeline operator. The pipeline operator is required to file a written response with the PSC within 30 days. Upon request of an interested party, or upon its own motion, the PSC may schedule a hearing in furtherance of its investigation.

If the formal show-cause portion of the enforcement as mentioned above does not satisfactorily resolve the violation, the PSC may move to the penalty phase of compliance. In determining the amount of the penalty, the PSC must consider the nature, circumstances and gravity of the violation and, with respect to the operator found to have committed the violation, the degree of culpability, compliance, ability to pay the penalty, and other matters. The fine must be recovered in a civil action upon the complaint of the PSC in any court of competent jurisdiction. The penalty for violating any safety regulation or provision adopted is a fine of not less than $100 or more than $100,000 each day in which the violation continues, except for the maximum fine may not exceed $1 million for any series of violations.